

# State of Colorado



Bill Owens  
Governor

Richard Djokic  
Director

## DPA

Department of Personnel  
& Administration

State Personnel Board  
The Chancery  
1120 Lincoln St., Suite 1420  
Denver, Colorado 80203  
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### AGENDA PUBLIC BOARD MEETING May 18, 2004

A public meeting of the State Personnel Board will be held on Tuesday, May 18, 2004, at the Colorado Department of Transportation, 4201 East Arkansas Avenue, Second Floor Auditorium, Denver, Colorado 80222. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-764-1472 by May 13, 2004.

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#### I. REQUESTS FOR RESIDENCY WAIVERS

- A. May 1, 2004 Report on Residency Waivers

Reports are informational only; no action is required.

#### II. PENDING MATTERS - LEGISLATION

- A. House Bill 04-1373 - Concerning Modifications to the "State Personnel System Act"
- B. House Concurrent Resolution 04-1005 - Concerning Reform of the State Civil Service System
- C. Senate Bill 04-131 - Concerning Modifications to the Procedures for Handling an Employment Discrimination Complaint Filed by an Employee in the State Personnel System
- D. Senate Bill 04-007 - Concerning the Determination of Which Higher Education Employees are Exempt from the State Personnel System

#### III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD

- A. Denise Martinez v. Department of Personnel and Administration, Executive Office, State Personnel Board case number 2003B118.

On November 26, 2003, the Initial Decision of the Administrative Law Judge was issued. On March 22, 2003, Complainant's Appeal of Initial Decision of the Administrative Law Judge (Opening Brief) was filed. Respondent's Response to Complainant's Appeal of Initial Decision of the Administrative Law Judge (Answer Brief) was filed on April 6, 2004. Complainant's Reply Brief to Respondent's Response to Complainant's Appeal of Initial Decision of the Administrative Law Judge was filed on April 19, 2004.

- B. Greg Bailey v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2004B043.

On December 23, 2003, the Initial Decision of the Administrative Law Judge was issued.

- C. LaVonne Taylor v. Department of Education, Colorado School for the Deaf and the Blind, State Personnel Board case number 2003G095 (C).

On January 15, 2004, the Administrative Law Judge issued a Dismissal Order. Complainant's Appeal (Opening Brief) was filed on April 14, 2004. Respondent's Reply to Complainant's Opening Brief (Answer Brief) was filed on May 3, 2004.

#### **IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING**

- A. Robert Smoke v. Department of Labor and Employment, Unemployment Insurance, State Personnel Board case number 2004G025.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's termination of Complainant's employment. On April 13, 2004, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied. On May 3, 2004, Complainant filed a Pleading/Petition for Declaratory Judgment/Preliminary Answer Brief regarding Preliminary Recommendation of the Administrative Law Judge.

- B. Melissa Rutter v. Regents of the University of Colorado, University of Colorado at Boulder, Department of Public Safety, State Personnel Board case number 2004G032.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's denial of Complainant's grievance. On April 20, 2004, a Preliminary Recommendation of the Board's Director was issued, recommending that a hearing be denied.

- C. David Teigen v. Department of Corrections, Colorado Territorial Correctional Facility, State Personnel Board case number 2003B127.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's abolishment of Complainant's position. On April 29, 2004, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be granted on the issue of whether the Department's actions relating to Complainant's retention rights and the subsequent changes in his position were arbitrary or capricious.

#### **V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR**

- A. George Muncy v. Department of Human Services, Division of Colorado State Veterans Nursing Home, Colorado State Veterans Center at Homelake, State Personnel Board case number 2004B087.

On April 29, 2004, an Order Regarding Respondent's Motion to Dismiss, Initial Decision of the Administrative Law Judge and Notice of Appeal Rights was issued. The ALJ found that Respondent's abolishment of Complainant's position was not arbitrary, capricious or contrary to law. The ALJ ordered that Respondent's Motion to Dismiss is granted, Respondent's action is affirmed, and Complainant's appeal is dismissed with prejudice.

- B. Roberta Wegman v. Department of State, Secretary of State, State Personnel Board case number 2004B082.

On May 6, 2004, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's suspension without pay of Complainant was not arbitrary, capricious or contrary to rule or law. The ALJ ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

## **VI. REVIEW OF THE MINUTES FROM THE APRIL 20, 2004 PUBLIC MEETINGS OF THE STATE PERSONNEL BOARD**

## **VII. ACKNOWLEDGMENTS**

### **DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS APRIL 20, 2004 PUBLIC MEETING:**

- A. Robert Flores, David Holt, Ronald Johnsen, Donald Lawson, Dolores Montoya & Charlene Peterson v. Department of Corrections, State Personnel Board case number 2003G124.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing.

- B. Harlen Ainscough v. Department of Public Health and Environment, Hazardous Materials & Waste Management Division, State Personnel Board case number 2003G114.

The Board voted to adopt the Preliminary Recommendation of the Director and deny the petition for hearing.

- C. Albert McNeill v. Department of Labor and Employment, State Personnel Board case number 2004G017.

The Board voted to adopt the Preliminary Recommendation of the Director and deny the petition for hearing.

## **VIII. REPORT OF THE STATE PERSONNEL DIRECTOR**

## **IX. ADMINISTRATIVE MATTERS & COMMENTS**

### **A. ADMINISTRATIVE MATTERS**

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Web Site Statistics (March and April 2004)
- Mandate in Shipley v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2001G029, Court of Appeals No. 02CA2271
- Mandate in Verhey v. Department of Revenue, Taxpayer Services, State Personnel Board case number 2003G129, Court of Appeals No. 04CA20

- Mandate in Harvey v. Department of Human, Division of Youth Corrections, Mount View Youth Service Center, State Personnel Board case number 2002G129, Court of Appeals No. 03CA2404
- Mandate/Order Affirmed in Hendrix v. Department of Corrections, Volunteer Service Administration, State Personnel Board case number 2002G91, Court of Appeals No. 02CA2024
- Future meeting locations

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

X. EXECUTIVE SESSION

A. Case Status Report

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**NEXT REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.**

<b>June 15, 2004</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>July 20, 2004</b>	<b>Colorado Department of Natural Resources 1313 Sherman Street, Room 318 Denver, CO 80203</b>
<b>August 17, 2004</b>	<b>Colorado Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246</b>
<b>September 21, 2004</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>October 19, 2004</b>	<b>Colorado Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246</b>
<b>November 16, 2004</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>December 21, 2004</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>January 18, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>February 15, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>March 15, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>April 19, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>May 17, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>
<b>June 21, 2005</b>	<b>Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222</b>